

REMARKS

I. STATUS OF THE CLAIMS

Claims 1, 3-5, 14, 16-18, 21, 23-25, 28-30 have been amended. Claims 1-31 are pending in this application. Applicants believe that no new matter has been added.

II. REJECTION UNDER 35 U.S.C. 103(a) – HUMPLEMAN, NAUGHTON AND GENTNER

Claims 1-6, 14-19, 21-26 and 28-31 were rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman et al. (US 6,603,488) in view of Naughton et al. (US 6,020,881) and Gentner (US 5,796,404). This rejection is respectfully traversed.

In a non-limiting example, claim 1 as amended recites “An information processing apparatus, comprising:

a menu storage unit storing characteristic menu information including a plurality of commands corresponding to applications;

a menu window displaying a first menu using the characteristic menu information stored in said menu storage unit, the first menu allowing activation of an application; and

a menu development unit which discriminates an application that is activated and causes the menu window to display a second menu using said characteristic menu information corresponding to the discriminated application

wherein if no characteristic menu information corresponds to the discriminated application, said menu development unit determines which commands among commands for the active application are executable using key codes and said determined commands are used for the characteristic menu information.” (Emphasis added).

Humpleman, Naughton and Gentner, taken separately or in combination, do not describe, teach or suggest at least “wherein if no characteristic menu information corresponds to the discriminated application, said menu development unit determines which commands among commands for the active application are executable using key codes and said determined commands are used for the characteristic menu information” as recited in amended independent claim 1.

As recited in claim 1, if no characteristic menu information corresponds to the discriminated application, the menu development unit determines which commands of the active program can be executed using key codes/keyboard shortcuts, and then uses those commands

as *menu items* in a displayed menu. The user can then utilize the displayed menu to select a menu item to execute a particular command.

The Office Action states that Gentner (Fig. 3; col. 3 ln 39-54) teaches menu information composed of key codes. (See Office Action pg. 3). This contention is respectfully traversed.

Gentner does not teach using key codes as menu items. Gentner describes essentially the opposite. Gentner takes commands that can be executed using icon buttons or menu items of an active program, and assigns them key codes which can be used to execute the command. (See Gentner col. 3 ln 27-33). Gentner then “superimposes and displays the alphanumeric characters on the objects.” (col. 3 ln 52-54). In other words, Gentner describes a user utilizing the key codes/keyboard shortcuts *themselves* to execute commands which are displayed on the screen. Therefore, Gentner does not describe using key codes as menu items.

It does not necessarily follow that if key codes are based on menu items, then it is obvious to base menu items on key codes. Such is not obvious because applications do not necessarily have key codes for all menu items. Therefore, using key codes *for menu items* would not have been obvious to a person of ordinary skill in the art based on the teachings of Gentner or common knowledge in the art. Moreover, one of the objectives of Gentner is to aid “persons suffering from afflictions such as carpal tunnel syndrome, because any graphical object can be selected using simple key presses.” (See col. 3 ln 66-67) In other words, Gentner describes substituting the use of menus and menu items for keyboard shortcuts. In fact, Gentner teaches away from the recitation of claim 1. Gentner describes “[t]he present invention improves over prior art... and location cursor arrangements in that it does not *require a separate text menu*, or require that objects have labels. (Emphasis added; Gentner col 3. ln 59-62). In contrast, in claim 1, a menu (not limited to text) is displayed and utilized to execute the various commands.

Therefore, Gentner does not cure the deficiencies of Humpleman and Naughton. Accordingly, Humpleman, Naughton and Gentner, taken separately or in combination, do not describe, teach nor suggest at least the above mentioned feature.

Claims 2 and 6

Claims 2 and 6 depend from claim 1, and therefore, inherit the patentable recitations of their base claim. In addition, claims 2 and 6 are independently patentable for reciting additional features not described, taught nor suggested by the cited references.

Claims 3, 4 and 5

Independent claims 3 and 4 also recite “said menu development unit determines which commands among commands for the active application are executable using key codes and said determined commands are used for the characteristic menu information,” which is not described, taught nor suggested by the cited references.

Claim 5 depends from claim 4, and therefore, inherits the patentable recitations of its base claim. In addition, claim 5 is independently patentable for reciting additional features not described, taught nor suggested by the cited references. For example, claim 5 as amended, recites “if no application is being executed, the menu development unit ***displays a launcher menu*** for starting the applications.”

Claims 14, 15 and 19

Independent claim 14 recites “menu items of the menu being composed of commands of the discriminated application that are executable using key codes serving as commands in applications...” which is not described, taught nor suggested by the cited references.

Claims 15 and 19 depend from claim 14, and therefore, inherit the patentable recitations of their base claim. In addition, claims 15 and 19 are independently patentable for reciting additional features not described, taught nor suggested by the cited references.

Claims 21, 22 and 26

Independent claim 21 recites “characteristic menu information being used to configure menu items composed of commands of the discriminated application that are executable using key codes and serving as commands in the plurality of applications...” which is not described, taught nor suggested by the cited references.

Claims 22 and 26 depend from claim 21, and therefore, inherit the patentable recitations of their base claim. In addition, claims 22 and 26 are independently patentable for reciting additional features not described, taught nor suggested by the cited references.

Claims 16, 17, 18, 23, 24, 25, 28 and 29

Independent claims 16, 17, 23, 24, 28 and 29 recite “commands of the discriminated application that are executable using key codes are used for the characteristic menu information...” which is not described, taught nor suggested by the cited references.

Claims 18 and 25 depend from claim 17 and 24 respectively, and therefore, inherit the patentable recitations of their base claims. In addition, claims 18 and 25 are independently patentable for reciting additional features not described, taught nor suggested by the cited

references. For example, claim 18 and 25 as amended, recite “if no application is being executed, the menu development unit ***displays a launcher menu*** for starting the applications.”

Claims 30 and 31

Independent claim 30 recites “displaying commands of the discriminated application that are executable using key codes...” which is not described, taught nor suggested by the cited references.

Independent claim 31 recites “when the application corresponding to the menu of the application menus is executing and displaying the application launcher menu when an application corresponding to one of the application menus is not executing...” which is not described, taught nor suggested by the cited references.

Therefore, claims 1-6, 14-19, 21-26 and 28-31 patentably distinguish over the cited references. Accordingly, applicants respectfully request the rejection under 35 U.S.C. 103 be withdrawn.

III. REJECTION UNDER 35 U.S.C. 103(a) – HUMPLEMAN, NAUGHTON, GENTNER AND HIGUCHI (JP-01100620)

Claims 7-13, 20 and 27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman et al. (“Humpleman”, US 6,603,488) in view of Naughton et al. (“Naughton”, US 6,020,881) and Gentner (US 5,796,404), and further in view of Higuchi (JP-01100620). This rejection is respectfully traversed.

Claims 7-13, 20 and 27 inherit the patentable recitations of their respective amended base claims. (See Section II.) Higuchi fails to cure the deficiencies of Humpleman-Naughton-Gentner. In addition, claims 7-13, 20 and 27 are independently patentable for reciting additional features not described, taught nor suggested by the cited references as per the following:

Claims 7-9, 12 and 13

For claims 7-9, 12 and 13 the Office Action cites Higuchi [fig. 1; pg. 1 last, para. – pg. 2, first para.] as describing “an indication unit indicating display of said first menu and said menu development unit discriminates the application activated if an indication of said indication unit is detected....” Higuchi, however, merely describes using a cursor key for scrolling a menu (See Abstract). Higuchi fails to describe “an *indication unit* indicating display of said first menu and said menu development unit discriminates the application activated if an indication of said indication unit is detected.”

Claims 10-11

For claims 10 and 11, the Office Action contends that the arrangements of the defined button and the scroll up/down buttons as a seesaw switch is well known in the art. (See OA pg. 6). This contention is respectfully traversed.

First, [Key 7] as described in Higuchi, is arranged to the left of the scroll keys but to the right of possibly a keyboard such that it resembles an "enter" key. (See Fig. 1). The arrangement of a "defined" button in Higuchi is not "arranged between said scroll-up button and said scroll-down button" as recited in claim 10. The Office Action does not support why placing the defined button in between the scroll buttons would be obvious to a person of ordinary skill in the art. The Office Action merely states that it would be convenient and more efficient. (See OA pg. 6).

Second, In *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 127 SCt 1727, 167 LEd2d 705 (U.S. 2007), the U.S. Supreme Court held that in determining obviousness, it is necessary "to determine whether there was an apparent reason to combine the known elements in the fashion claimed." (slip op. 14, 82 USPQ2d at 1396).

In rejecting claims 10 and 11, the only reasons given were "to provide a convenient and more efficient means for navigating through as well as selecting menu options." (OA pg. 6). It is submitted that these reasons are insufficient to answer the question posed by *KSR v. Teleflex*, i.e., "an apparent reason to combine the known elements *in the fashion claimed*." (Emphasis added, *KSR v. Teleflex*). In other words, why would it be obvious to place the defined button in *between* the scroll buttons when other positions still allow a convenient and more efficient means.

Claims 20 and 27

Claim 20 is patentable because the cited references do not described, teach nor suggest "indicating display of said menu, and the executing application is discriminated *if an indication is detected*."

Claim 27 is patentable because the cited references do not described, teach nor suggest "executing application is discriminated if said indication is detected."

Therefore, claims 7-13, 20 and 27 patentably distinguish over the cited references. Accordingly, applicants respectfully request the rejection under 35 U.S.C. 103 be withdrawn.

IV. CONCLUSION

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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